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C O N F I D E N T I A L SECTION 01 OF 02 ISLAMABAD 001947

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SUBJECT: CODEL FEINGOLD MEETS WITH LAWYERS' MOVEMENT LEADERS

Classified By: Anne W. Patterson, Reasons 1.4 (b), (d)

¶1. (C) Summary: U.S. Senator Russ Feingold (D-WI), visiting Islamabad May 26, met with leaders of Pakistan's lawyers' movement. The Senator noted his long-standing support for the lawyers, calling both the USG's response to Musharraf's 2007 state of emergency and the new GOP's plans to reinstate the deposed judges but with conditions as appalling. Former Supreme Court Chief Justice Iftikhar Chaudhry said the lawyers fraternities would, at most, accept the current judges as "ad hoc;" he was still the Chief Justice, Chaudhry insisted, and reinstatement could be accomplished with a "simple executive order" issued by the Prime Minister. Supreme Court Bar Association President Aitzaz Ahsan strongly criticized U.S. foreign policy, specifically the perceived silence on the judges issue, and requested Feingold to prompt the U.S. to "empower" the people. End summary.

Taking a Stand

¶2. (C) On May 26, U.S. Senator Russ Feingold met in Islamabad with leaders of Pakistan's lawyers' movement -- Supreme Court Bar Association President Aitzaz Ahsan, former Supreme Court Chief Justice Iftikhar Chaudhry, his senior attorney Athar Minallah, and former Supreme Court Justice Tariq Mahmood. Feingold began by noting that he took the lead among his Foreign Relations Committee colleagues in questioning USG policy in Pakistan following the November 3, 2007, state of emergency. He described that current policy as appalling.

¶3. (C) The former Chief Justice thanked the Senator for taking notice of the removal of nearly 60 judges, adding that such removal was illegal. (Note: Post has taken the time to list all of the judges deposed on November 3, counting only about 40. None of our contacts have been able to justify the larger number, though they continue to use it.) Chaudhry recounted how he instructed all Supreme Court and provincial High Court judges not to take any oath under the provisional constitutional order (PCO), noting there is a constitutional mechanism, instead, to remove judges. Since these recognized means were not used by the executive, Chaudhry concluded, "I am still the Chief Justice."

Moving Forward

¶4. (C) Asked about the lawyers' plans to force the GOP to put the pre-November 3 judges back on the bench, Chaudhry stated that the Pakistan People's Party (PPP) was taking steps to restore the judiciary and agreement between PPP and coalition partner Pakistan Muslim League-Nawaz (PML-N) was possible.

However, instead of the PPP's omnibus constitutional amendment, which "is just a delay tactic," or even a National Assembly resolution, the lawyers fraternity believed a simple executive order was all it would take to restore Chaudhry and his colleagues.

15. (C) The former Chief Justice confirmed to Feingold that such an executive order would be issued by Prime Minister Yousuf Raza Gilani (not President Pervez Musharraf). Though he and the lawyers' movement would not stray from this position, repeating that the appointment of the current judges was "illegal," Chaudhry offered the possibility of making them "ad hoc" judges. The Supreme Court bench, though, was legally limited to 17 judges. Remarking about the PPP's package to add all the former judges to the current bench and to clip the powers and tenure of the Chief Justice, Feingold called the plan "reinstatement light."

16. (C) Chaudhry assured the Senator that, as Chief Justice, he had and would take a "keen interest" in detainees charged under Pakistan's anti-terrorism laws. "For our country and children, those who are guilty should not be spared," Chaudhry said. They should be brought to trial immediately, he added.

Grievances

17. (C) Ahsan claimed that Chaudhry had been internationally recognized as a jurist (by Harvard Law School and the ABA Journal most recently) for his intolerance of corruption,

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fight against environmental degradation, and advocacy of human rights. "These are American values," Ahsan exclaimed. And yet, for five months, Ahsan continued, "not a decibel from the Bush Administration" about Chaudhry and his minor children being confined to their house. He added that Musharraf was "not just unpopular but hated."

18. (C) Responding to Feingold's call for accountability, Ahsan stated, "An empowered people with enforceable rights" is the greatest weapon against terrorism. They will not feel as if they must take matters into their own hands, Ahsan added, calling the general public "a bulwark in the Global War on Terror."

19. (U) Codel Feingold did not clear this cable.

PATTERSON